IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 5882 of 2005

Between:

K. Bhaskar Reddy, S/o Ramireddy,
R/o Flat No. 302, Sri Rama Residency, Near Sai Baba Temple, Akkayapalem,
Visakhapatnam.

..... PETITIONER

AND

1 The State of Andhra Pradesh, rep. by its Secretary,
Municipal Administration Department, Secretariat,
Hyderabad.
2 The Commissioner, Visakhapatnam Municipal Corporation,
Visakhapatnam.
3 The City Planning Officer,
Visakhapatnam Municipal Corporation,
Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent in interfering with his land and the structures therein and thereby threatening to take 22 feet from his side and without taking any land from the other side for the purpose of road widening, without initiating any land acquisition proceedings or without following due process of law is illegal, arbitrary, unjust, malafide, highly discriminative and against the principles of natural justice apart from violating the fundamental rights guaranteed under the Constitution and consequently direct the respondents not to interfere with his peaceful possession and enjoyment of the land admeasuring 657 Sq. yards covered by Old Survey No. 74-77/A-77/C and new Survey No. 77/1A1/1B1A1, Block No.9, Ward No. 19 (Old) New Ward No. 24 of Waltair Ward, Visakhapatnam and constructions therein except under due process of law.

Counsel for the Petitioner:MR.RAVI CHEEMALAPATI

Counsel for the Respondent No.1: GP FOR MUNCIPAL ADMN. & URBAN DEV.

Counsel for the Respondent Nos.2 and 3 : Sri.N.Ranga Reddy (SC for Municipality)

The Court at the stage of admission made the following :

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THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO. 5882 OF 2005

O R D E R:

Heard the learned counsel for the petitioner, learned Government Pleader for Municipal Administration appearing for the first respondent and the learned standing counsel appearing for respondents 2 and 3.

The petitioner seeks a Writ of Mandamus to declare the action of the respondent in trying to interfere with his possession and enjoyment of the land admeasuring 657 square yards covered by old S.No.74-77/A-77/C and new survey No.77/1A1/1B1A1, block No.9, Ward No.19 (old) New Ward No.24 of Waltair Ward, Visakhapatnam, without following due process of law for the purpose of proposed road widening work, as arbitrary and illegal.

It is represented by the learned counsel appearing for both parties that the issue involved in this writ petition is squarely covered by a decision of this Court in W.P. No. 21198 of 1997 and batch, dated 03-02-1998, wherein the Division Bench while considering an identical question, issued guidelines as under:

"1. Where a property is required for public purpose viz., widening of roads

or for any other purpose, the authorities straightaway cannot take law into their hands and jump into the premises, dispossess or evict the occupants or demolish the property.

2. *If the authorities concerned want to take action for eviction/dispossession of the occupants or demolition, they shall issue 60 days' prior notice notifying as to the nature of the property, the property to whom it belongs and the proposed action calling for explanation/objections if any from the occupants. On receipt of such objections, if there is any objection as to the ownership of the property, the authorities should determine the extent of encroachment of unauthorized occupation and also determine whether the property in question belongs to Government/any other local self Government or authority or the occupants and pass appropriate orders within three months from the date of receipt of the objections, after affording an opportunity of being heard to the occupants.*

3. *In case where demolition of private property has already been made, the authorities shall determine the damages on the basis of the assessment to be made by the Engineer of the Roads and Buildings Department and disburse the amount of damages quantified forthwith.*

4. *If the demolition is in respect of local bodies' Government property, the question of damages does not arise. In such an event, the occupant shall be entitled to remove the material used for the construction.*

5. *In case of demolition of private property, the authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of R & B Department and on such assessment of damages, the concerned authorities shall take appropriate steps to disburse the amount quantified forthwith.*

6. *If there is any claim for grant/assessment of the property, the concerned authorities shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of occupants, after making enquiry and till such claim is decided, there shall be status-quo obtaining as on today regarding the structures."*

The learned Government Pleader as well as the learned Standing counsel appearing for the respondents do not dispute the above legal position.

The writ petition is accordingly disposed of directing the 2nd respondent not to interfere with the possession of the petitioner in respect of the land in question without following the guidelines issued by the Division Bench in common order dated 03-02-1998 in W.P. No. 21198 of 1997 and batch. No costs.

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(**G. ROHINI, J**)

Date: 23-03-2005

Note : Issue operative portion by wire
at party's cost.

(B/O)

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To

1 The Secretary, Municipal Administration Department,
State of Andhra Pradesh, Secretariat,
Hyderabad.
2 The Commissioner, Visakhapatnam Municipal Corporation,
Visakhapatnam.
3 The City Planning Officer,
Visakhapatnam Municipal Corporation,

Visakhapatnam.

4 Two C.Cs to the G.P. for Municipal Administration and Urban Development, High Court Buildings, Hyderabad (OUT).
5 2 CD copies.